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ABSTRACT

The booklet discusses the educational administrator's responsibilities to handicapped persons, as mandated by Title V, Section 504, of the Rehabilitation Act of 1973 (P.L. 93-112) and the Education for All Handicapped Children Act (P.L. 94-142). The laws themselves are briefly discussed, along with the various handicapping conditions they provide for. Elementary, secondary, preschool, adult, and higher education are all touched upon. Other aspects covered include self evaluation of academic programs, physical access to buildings, and employment of handicapped persons. Other rights of the handicapped are also briefly reviewed, and addresses of agencies providing information about specific HEW programs serving the disabled are listed. Also included are self evaluation and building access checklists, a timetable for compliance to both laws, and the addresses of the HEW regional Office for Civil Rights. (DIS)

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U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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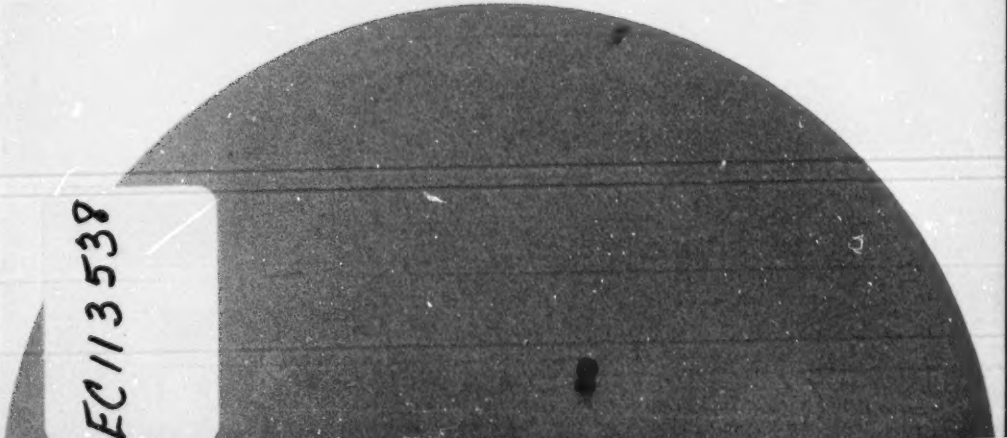
YOUR RESPONSIBILITIES TO DISABLED PERSONS AS A SCHOOL OR COLLEGE ADMINISTRATOR



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A new day is dawning for 36 million disabled people in the United States. Two landmark federal statutes to protect their rights became fully effective in 1977 under programs administered by the Department of Health, Education, and Welfare.

In impact, these laws are comparable to the civil rights acts of the 1960s and the 1972 legislation to protect the rights of women in education, as students and faculty members.

Congress made specific promises in the statutes to physically and mentally disabled individuals. As an educator, you will be involved in making these promises come true.

THE LAWS AND WHAT THEY COVER

If you administer a public or private

- **Preschool program**
- **Elementary or secondary school system**
- **College or university**
- **Adult basic education or vocational training program**

that receives federal assistance—in the form of grants, loans, some contracts, services, or property—under programs of the Department of Health, Education, and Welfare (HEW), or any other federal agency, or

If you administer a state plan under any HEW program, you have new responsibilities to handicapped students and employees under

TITLE V, SECTION 504, OF THE REHABILITATION ACT OF 1973 (Public Law 93–112).

In addition, if you administer a public or private

- **Preschool program**
- **Elementary or secondary school**
- **Residential school program**
- **Hospital education program for children requiring long-term health care**

you have more specific responsibilities to disabled children under

THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975 (Public Law 94–142).

WHAT THE LAWS MEAN

Section 504 is umbrella legislation. It prohibits discrimination against handicapped persons, on the basis of handicap, in any institution or activity receiving federal assistance. Included are all federally assisted schools, colleges, vocational centers, hospitals, nursing homes, social service programs, housing developments, transportation systems, and other public services.

Thus, section 504 protects the rights of handicapped persons to services and job opportunities wherever federal funds are involved and whether they are provided under HEW programs or programs of the Department of Transportation, Labor, Housing and Urban Development, or other federal agencies.

The Education for All Handicapped Children Act applies to state formula grant programs for disabled children and youth supported by HEW's Office of Education.

Both statutes have been on the books for some time. Detailed regulations were needed to administer them in the public interest. Regulation writing is always a lengthy process, requiring a series of public hearings.

The HEW regulation implementing section 504 became effective June 3, 1977. The regulation for the Education for All Handicapped Children Act went into effect October 1, 1977.

WHY THE LAWS ARE NEEDED

Both statutes have long been needed. Estimates today show that fewer than half of approximately eight million disabled children in the United States receive the education they need. And as many as one million disabled children may not even be enrolled in school.

Moreover, there's no way to learn how many of the 28 million handicapped adults in this country are denied the same access as nonhandicapped persons to careers in education, as in other fields. The public, schools of education, and prospective employers tend to see an applicant's disability; they often fail to recognize his or her ability.

COMPLIANCE

The regulations for section 504 and the Education for All Handicapped Children Act include compliance provisions. Failure to meet the anti-

discrimination requirements could result in withdrawal of federal funding.

Neither regulation applies to schools, colleges, or vocational training centers receiving *no* direct federal assistance and *no* indirect assistance such as federally insured loans to students. These institutions may choose, however, to make their own commitment to handicapped students and prospective employees on the basis of the requirements for federally assisted institutions.

By Presidential order HEW is the coordinating agency for government-wide implementation of section 504.

WHO IS HANDICAPPED?

In its section 504 regulation, HEW identifies a handicapped person as anyone with a physical or mental disability that substantially limits one or more of such major life activities as walking, seeing, hearing, speaking, working, or learning. A history of such disability or the belief on the part of others that a person has such a disability, whether it is so or not, is also recognized as a handicap by the regulation. Handicapping conditions include, but are not limited to:

Alcoholism*
Cancer
Cerebral palsy
Deafness or hearing impairment
Diabetes
Drug addiction*
Epilepsy
Heart disease
Mental or emotional illness
Mental retardation
Multiple sclerosis
Muscular dystrophy
Orthopedic, speech or visual impairment
Perceptual handicaps such as:
- Dyslexia
- Minimal brain dysfunction
- Developmental aphasia

* The U.S. Attorney General has ruled that alcoholism and drug addiction are physical or mental impairments that are handicapping conditions if they limit one or more of life's major activities.

ELEMENTARY AND SECONDARY EDUCATION

Section 504 makes states and local school districts responsible for providing an appropriate education for all physically and mentally handicapped students *at public expense*. This is true whether school officials decide a child can best be served in a regular or special education class in the public school, a residential or hospital program, or at home.

As a state or local school administrator, you *must*:

- Conduct a yearly search to locate every disabled child in your state or local district who is not receiving a public education.

  HEW-supported programs provide both financial and technical aid to states to identify, locate, and evaluate their disabled children.

- Notify parents or guardians of your responsibility for the education of their child. State or local organizations for parents of disabled children may be able to help in the notification process.

- Provide a free appropriate education regardless of the type or severity of a child's disability.

  For example, you may select a public or private residential program for a child with profoundly disabling cerebral palsy. Although the public school district itself may not be able to pay the extra cost of non-medical care, room, and board, it *is* responsible for finding these funds from other sources. The important thing is that these services must be provided at *no extra cost* to parents or guardians.

- Place every handicapped child in a program selected *after* consultation with parents or guardians, teachers, and others who know the child's needs.

  Pre-placement tests must be able to measure the student's educational level despite loss of hearing, sight, or other physical disability.

- Place every handicapped child who can benefit in a regular classroom with nonhandicapped students and provide aids needed to compensate for the disability.

  For example, you may have to provide an interpreter for a deaf student in a class taught primarily by lecture.

- Periodically evaluate every handicapped student's progress in the program and environment you select.

The Education for All Handicapped Children Act requires that state and local public school administrators:

- Locate every disabled child and young person, age 6-17, living in the state by September 1, 1978 and begin their education at public expense.

- If public education is required for children age 3-5, locate them by September 1, 1978 and begin their education at public expense.

- If public education is required for disabled youth, age 18-21, locate them by September 1, 1980 and begin an appropriate program for them at public expense.
- Give priority attention, first, to disabled children receiving no public education and, second, to the most severely handicapped children in each disability group who are receiving an inappropriate education.
- Develop with the advice and consent of parents or guardian an individualized education program for every handicapped student. Each individual program must have a *written statement* of:

  Learning goals developed by a qualified school official with teachers, parents or guardians, and, if possible, the child.

  Such special aids needed as braille books for blind children or high desks for children in wheelchairs.

  An evaluation of the extent to which the child can participate in regular classroom activities.

  A schedule to review periodically the child's progress and, with the consent of parents or guardian, make program revisions as needed.

  An explanation of due process procedures available to parents or guardian, including the requirement that schools give them written notice before any action is taken to change a child's program or program location.

Many of these safeguards are already in operation. The Education for All Handicapped Children Act is a 1975 amendment to the basic Education of the Handicapped Act of 1966, which had increasingly specific requirements added by amendments before 1975.

PRESCHOOL OR ADULT EDUCATION

If you administer a public or private preschool, day care, or adult education program receiving federal assistance, you *must*:

- Consider a disabled applicant for admission on the same basis as nonhandicapped applicants.
- Provide or locate free sources of learning aids such as cassette tapes for vision-impaired students.

HIGHER EDUCATION

As a college, university, or postsecondary vocational administrator, you *may not* under the section 504 regulation:

- Limit the number of handicapped students admitted.
- Use admissions tests or criteria that inadequately measure the academic level of blind, deaf, or otherwise disabled applicants because special provisions were not made to assist them.
- Make preadmission inquiries as to whether an applicant is disabled.

An exception is permitted if you are trying to overcome the effects of prior limitations on enrollment of handicapped students and an applicant is willing to provide information about a disability.

You are not required to alter academic standards or those directly related to state licensing requirements.

You may be required to:

- Extend the time permitted a handicapped student to earn a degree.
- Modify teaching methods and examinations to meet the needs of disabled students.
- Assure the availability of such learning aids as audio cassettes for blind students.

SELF-EVALUATION OF ACADEMIC PROGRAMS

If you administer any education program—preschool through graduate school—that receives assistance from HEW, you are required under the section 504 regulation to:

- Evaluate, within one year, the quality and availability of your academic programs and related services to handicapped students and begin to correct inadequate policies or practices.
- Make the evaluation with the assistance—and expertise—of disabled persons or organizations for disabled persons (see self-evaluation checklists).

PHYSICAL ACCESS TO BUILDINGS

As a school or college administrator, *you are not* required to provide ramps, elevators, and other devices to remove physical barriers in *every* building or in *every* part of a single building.
You *are* required, however, to:

- Make every program, viewed as a whole, accessible to handicapped students. To do this, you may need to:
Redesign equipment, provide aids, move classes to accessible locations,

alter existing structures, or make other accommodations so that disabled students can participate in every program.

- Design new buildings to be barrier free.

Barrier-free access for disabled persons must be provided in all buildings where construction began on or after June 3, 1977, the effective date of HEW's section 504 regulation.

EMPLOYING HANDICAPPED PERSONS

As an employer covered by the section 504 regulation, you *may not* discriminate against physically or mentally handicapped persons in:

- Recruitment, advertising, or processing of applications for employment.

  For example, you may not inquire about any disability an applicant may have or require a physical examination before a job offer is made.

  You may require a physical examination once a job is offered if nonhandicapped applicants are also required to take it.

This provision is to prevent discrimination against persons with such hidden disabilities as heart disease and epilepsy that would be revealed in a physical examination. It is also to keep employers from requiring a physical examination for handicapped job applicants only—a common practice in the past—then denying them a job because they failed to pass the examination.

You *may not* discriminate in:

- Hiring, promotion, award of tenure, demotion, transfer, layoff, termination or rehiring.
- Job assignments or career ladders.
- Leaves of absence, sick leave, training programs, or other fringe benefits.

Disabled employees who are qualified by ability, training, and experience must be given the same rights and benefits as nonhandicapped employees.

You may be required to make reasonable accommodations to a disability by providing, for example:

- A reader for a blind employee who handles paperwork.
- An interpreter for a deaf employee whose job requires using a telephone.
- Adequate work space for an employee who uses a wheelchair.

- Minor adjustment in working hours if an employee is required to visit a methadone clinic daily.

SELF-EVALUATION CHECKLISTS

These are the basic categories that should be examined in performing a self-evaluation of:

Preschool, Elementary, and Secondary Programs

Identification of children in need
Free appropriate public education
Placement procedures
Evaluation
Due process procedures
Non-academic activities
Employment
Building access

Higher Education Programs

Catalogs and other pre-admission literature
Admissions procedures
Access to courses
Academic adjustments
Auxiliary aids and services
Non-academic activities
Housing
Employment
Building access

BUILDING ACCESS

These are the basic categories that should be examined in performing an architectural accessibility survey:

Site considerations

- ☐ parking space
- ☐ curb cuts
- ☐ sidewalks

Doors

- ☐ width
- ☐ opening pressure
- ☐ threshold

Floors and Halls

- ☐ width
- ☐ surface covering
- ☐ obstructions and hazards

Operating Mechanisms and Controls

- ☐ height
- ☐ ease of manipulation

Water Fountains

- ☐ height
- ☐ controls

Changes in Level

- ☐ ramps
- ☐ elevators
- ☐ lifts

Rest Rooms

- ☐ location
- ☐ size
- ☐ stall width and depth
- ☐ grab bars

Seating

- ☐ space for wheelchairs
- ☐ traffic circulation

Telephones

- ☐ height
- ☐ volume control

TIMETABLE: SECTION 504 COMPLIANCE

April 28, 1977	Final regulation signed by HEW Secretary Joseph A. Califano, Jr.
May 4, 1977	Final regulation published in the *Federal Register*.
June 3, 1977	Regulation in effect. New construction begun after this date must be barrier-free.
July 5, 1977	Deadline for return of Assurance of Compliance (Form HEW 641) from all institutions receiving financial assistance from HEW.
August 2, 1977	Deadline for programs or activities in existing facilities to be made accessible (where structural changes are not required).
September 2, 1977	HEW fund recipients that have 15 or more employees were, by this date, to make initial public notification that they do not discriminate on the basis of handicap.
December 2, 1977	If structural changes in existing facilities are necessary to make programs accessible, recipients of HEW funds, shall, by this date, have developed a transition plan outlining the steps needed to complete these changes. A copy of the transition plan will be made available for public inspection.
June 2, 1978	Deadline for HEW recipients to complete a self-evaluation process in consultation with handicapped individuals and organizations.
June 2, 1980	Deadline for structural changes to be made in existing facilities where necessary to achieve program accessibility.

TIMETABLE
EDUCATION FOR ALL HANDICAPPED CHILDREN ACT COMPLIANCE

October 1, 1977	State education agencies assumed responsibility for general supervision of the education of all children receiving special education. Individual education programs must have been developed for all handicapped children already enrolled.
September 1, 1978	A free appropriate public education must be available for all handicapped children, age 3–17.*
September 1, 1980	A free appropriate education must be available for all handicapped youth, age 18–21.*

*This does not apply to age 3–5 or 18–21 in any state where the provision would be inconsistent with state law, practice, or court order.

WHAT DISABLED PERSONS CAN DO

If individuals feel that their rights have been violated by a business, hospital, physician, school, college, or any other institution receiving HEW assistance, because of their disability or their child's disability, they should write, giving details, to the **Office for Civil Rights, Department of Health, Education, and Welfare**, in their regions, whose addresses are listed below.

Region I
(Conn., Maine, Mass., N.H., R.I., Vt.)
140 Federal St., 14th Floor
Boston, Mass. 02110

Region II
(N.J., N.Y., Puerto Rico, Virgin Isles)
26 Federal Plaza, 33rd Floor
New York, N.Y. 10007

Region III
(Dela., D.C., Md., Pa., Va., W. Va.)
Post Office Box 13716
Philadelphia, Pa. 19101

Region IV
(Ala., Fla., Ga., Ky., Miss., N.C., S.C., Tenn.)
101 Marietta St., 10th Floor
Atlanta, Ga. 30323

Region V
(Ill., Ind., Mich., Minn., Ohio, Wis.)
300 South Wacker Drive
Chicago, Ill. 60606

For **Cleveland, Ohio** office of **Region V**
Plaza Nine Bldg.,
55 Erieview Plaza, Room 222
Cleveland, Ohio 44114

Region VI
(Ark., La., N.M., Okla., Texas)
1200 Main Tower Bldg.
Dallas, Texas 75202

Region VII
(Iowa, Kan., Mo., Neb.)
Twelve Grand Bldg.
1150 Grand Ave.
Kansas City, Mo. 64106

Region VIII
(Colo., Mont., N.D., S.D., Utah, Wyo.)
Federal Bldg.
1961 Stout St., Room 11037
Denver, Colo. 80294

Region IX
(Ariz., Calif., Hawaii, Nev., Guam, Trust Terr. of Pacific Isles, American Samoa)
100 Van Ness Ave., 14th Floor
San Francisco, Calif. 94102

Region X
(Alaska, Idaho, Ore., Wash.)
1321 Second Ave., Room 5041 MS/508
Seattle, Wash. 98101

The Office for Civil Rights enforces federal laws prohibiting discrimination against persons on the basis of race, color, national origin, religion, sex, age, or mental and physical handicap and investigates discrimination complaints brought by individuals under these statutes.

OTHER RIGHTS

In addition to the section 504 rights discussed above, Title V of the Rehabilitation Act and the Developmental Disability Act give other equal opportunity protections.

Disabled persons have the right to be considered for employment by the federal government

Section 501 requires that federal agencies take affirmative action to hire and promote disabled persons.

All executive branch agencies must make an annual report to the Civil Service Commission on their progress in hiring and promoting disabled persons. The Civil Service Commission in turn reports to Congress.

Disabled persons who believe they have been denied a federal job because of their handicap should contact the nearest Federal Job Information Center. Consult the local telephone directory for the address and telephone number.

Disabled persons who believe they have been denied a promotion in a federal agency because of their handicap should contact the Equal Employment Opportunity Officer in their agency.

Disabled persons have the right of access to federal and federally financed buildings

Section 502 sets up a federal compliance board to make sure disabled persons have access to all buildings owned, occupied, or financed by the U.S. government.

Disabled persons with a complaint about an inaccessible building should write, giving details to:

Architectural and Transportation Barriers Compliance Board
Washington, D.C. 20201.

Disabled persons have the right to be considered for services or employment by federal contractors

Section 503 says firms doing business with the U.S. government must take affirmative action to hire and promote disabled persons.

If disabled persons believe their rights have

been violated, they should file a complaint within 120 days of the alleged violation with:

Veterans and Handicapped Division
Office of Federal Contract Compliance Programs, Department of Labor
Washington, D.C. 20210.

The Developmental Disability Services and Facilities Construction Act, as amended, protects:

Rights of persons with developmental disabilities

Persons who are mentally retarded or have cerebral palsy, epilepsy or autism—or dyslexia resulting from these conditions—are entitled to state legal protection and expanded services effective October 1977.

States were required by this date to have a system in place to investigate complaints and take appropriate legal or administrative action.

Disabled persons who have a complaint should write:

Developmental Disabilities Office
Department of Health, Education, and Welfare
Washington, D.C. 20201.

INFORMATION ABOUT HEW PROGRAMS

For information about specific programs serving disabled persons, write to the appropriate HEW agency listed below.

Health Care Financing Administration
Department of Health, Education, and Welfare
Washington, D.C. 20201

Administers Medicare and Medicaid and sets standards for the quality of health care under these programs.

Office of Education
Department of Health, Education, and Welfare
Washington, D.C. 20202

Gives assistance to states and local school districts to improve their services to handicapped students; to research efforts and demonstration projects which encourage innovation and improvement programs; to education institutions to aid staff members and volunteers training in special education; and to the general public and specific populations through public media, captioned films, and Closer Look Information Center.

Office of Human Development Services
Department of Health, Education, and Welfare
Washington, D.C. 20201

Administers Head Start and other child development services, vocational and other rehabilitation programs of the Rehabilitation Services Administration, programs to assist persons with developmental disabilities, and programs for older Americans; also family counseling, child welfare and related social services.

Public Health Service
Department of Health, Education, and Welfare
Washington, D.C. 20852

Administers maternal and child health, family planning, and services to disabled children; also research, staff training, and service grants under the Alcohol, Drug Abuse, and Mental Health Administration to improve alcohol, drug abuse, and mental health care; and a variety of disabling disease research activities under the National Institutes of Health.

Social Security Administration
Department of Health, Education, and Welfare
Baltimore, Maryland 21235

Administers retirement, survivors, and disability insurance benefits; supplemental security income for aged, blind, and disabled persons; and aid to families with dependent children.

For general information about HEW programs serving disabled persons write:

HANDICAPPED
Department of Health, Education, and Welfare
Washington, D.C. 20201

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